



STATE OF DELAWARE

PUBLIC SERVICE COMMISSION
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February 14, 2018

VIA E-MAIL AND DELAFILE

Mr. Daniel Kern, CEO
SmartEnergy Holdings, LLC
575 Lexington Avenue, 4th Floor
New York, NY 10022

IN THE MATTER OF THE APPLICATION OF SMARTENERGY HOLDINGS, LLC FOR A CERTIFICATE TO PROVIDE ELECTRIC SUPPLY SERVICES WITHIN THE STATE OF DELAWARE (FILED FEBRUARY 5, 2014) - PSC DOCKET NO. 14-64

Dear Mr. Kern –

The Staff of the Delaware Public Service Commission (“Staff”) is in receipt of the customer contract and marketing materials for Residential and Small Commercial Customers used by SmartEnergy Holdings, LLC (the “Company”). Staff requests revisions as stated below in order to comply with 26 *Del. Admin C.* §3001¹ (“Supplier Rules”).

The marketing materials submitted appear to be for the state of New Jersey. Please confirm that the Company intends to utilize the same materials in Delaware, excluding the New Jersey Customer Agreement, or provide the marketing materials for Delaware.

Section 6.2.2.7.1 of the Supplier Rules provides as follows: **The Residential or Small Commercial Customer may Rescind the Contract within three (3) Business Days from the start of the Rescission Period; and**

6.2.2.7.2 The Rescission Period begins on one of the following dates, as applicable;

6.2.2.7.2.1 When the Residential or Small Commercial Customer signs the Contract;

6.2.2.7.2.2 When the Residential or Small Commercial Customer transmits the electronic acceptance of the Contract electronically; or

6.2.2.7.2.3 When the Residential or Small Commercial Customer receives the Contract and Contract Summary, if received by mail. There shall be a rebuttable presumption that a Contract and Contract Summary correctly addressed to a Residential or Small Commercial Customer with sufficient first class postage attached shall be received three (3) days after it has been properly deposited in the United States mail.

Please revise the Contract Summary and Right to Cancel section of the Contract to comply with the Supplier Rules.

Section 6.2.2.10 of the Supplier Rules provides as follows: **A statement informing the Residential or Small Commercial Customer that, because of relocation outside of their current EDC’s**

¹ See Order No. 9020 in Regulation Docket 49.

service territory, they he/she may terminate his/her Contract with no termination fee. Please revise the Contracts to comply with the Supplier Rules.

Section 6.2.2.9 of the Supplier Rules provides as follows: **The Electric Supplier's local or toll-free telephone number to obtain information and handle complaints; mailing address and website address; the Commission's address website address, Delaware toll-free telephone number; and the DPA's address, website address, and telephone number.** Please revise the Contract to include DPA's contact information.

Section 6.2.2.10 of the Supplier Rules provides as follows: **A statement informing the Residential or Small Commercial Customer that, because of relocation outside of their current EDC's service territory, they he/she may terminate his/her Contract with no termination fee.** Please revise the Contract to include this statement.

Section 10.7.2 of the Supplier Rules provides as follows: **If the Customer (or a Broker acting on behalf of a Customer) and Electric Supplier are not able to come to a resolution, the Customer or Broker may contact the DPA with its complaint. If the DPA is unable to effect a satisfactory resolution, the Customer or Broker may file a formal complaint with the Commission as described in 26 DE Admin. Code §1001-2.2.1 "Rules of Practice and Procedure of the Delaware Public Service Commission."** Please replace the contact information of the Commission with that of the DPA in the Miscellaneous section of the Contract.

The last sentence in the section of the contract regarding Renewable Energy and Renewable Energy Credits will need to be removed to comply with Section 13 of the Supplier Rules. In accordance with Delaware code, any Electric Supplier advertising that a product is renewable would be liable for providing renewable energy from the sources listed in 26 Del.C. §352(6)(a)-(i). Any product labeled as renewable energy must match the definitions in the Supplier Rules and Delaware code.

Additionally, all documents that are e-filed using DelaFile are publically available to anyone who logs into the DelaFile website. The documents filed by the Company were designated as highly confidential. However, in order for any document to be considered confidential you must simultaneously also e-file a redacted, public version of the same document and an attestation that the information is not subject to public inspection or disclosure. Refer to Section 1001-1.11 of [the Commission's Rules of Practice and Procedures](#) for the requirements to follow for requesting such confidential treatment of documents (including the attestation required). For a listing of materials that are exempt from public disclosure, see 29 Del. C. §10002(I). All e-filed confidential documents without a corresponding redacted, public version and attestation, do not meet the Commission's minimum filing requirements and are not considered as legally filed documents per the Commission's Rules of Practice and Procedure and do not start any time limits set for a response from the Commission or its staff.

I can be reached at (302) 736-7521 or by email at malika.davis@state.de.us, should you have any questions. You may also contact Ms. Shona Marshall at (302) 736-7539 or by email at Clishona.marshall@state.de.us.

Sincerely,



Malika Davis
Public Utility Analyst